

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

JERRY VANWAGNER

PLAINTIFF

VERSUS

CIVIL ACTION NO. 4:18-CV-150-GAD-RP

C. FAULKS, ET AL

DEFENDANTS

**DEFENDANT NURSE PRACTITIONER ANGELA BROWN'S
MOTION FOR SUMMARY JUDGMENT**

Defendant Nurse Practitioner Angela Brown (“Nurse Practitioner Brown” or “Defendant”), through counsel, and pursuant to Federal Rule of Civil Procedure 56, files this Motion for Summary Judgment. Defendant is entitled to summary judgment because Plaintiff, under the undisputed facts, cannot establish essential elements of his claim. Plaintiff Jerry Vanwagner (“Plaintiff”) filed a Complaint pursuant to 42 U.S.C. § 1983 against Defendant. Because Plaintiff did not exhaust his administrative remedies, and he cannot establish that Defendant’s actions violated Plaintiff’s Eighth Amendment rights, Defendant is still entitled to summary judgment. In further support, Defendant states as follows:

1. On July 16, 2018, Plaintiff Tony Davis, a *pro se* litigant currently incarcerated at the Mississippi State Penitentiary (“Parchman”) at the time of the alleged incident for aggravated DUI, filed a Complaint pursuant to 42 U.S.C. § 1983. Plaintiff later amended his Complaint to add claims against Nurse Practitioner Brown for her alleged failure to treat his Hepatitis C condition.

2. Plaintiff’s medical records refute his claim and establish that medical staff provided ongoing, continuous, and adequate medical care, and was diligent in addressing Plaintiff’s condition.

3. What is more, Plaintiff never named Nurse Practitioner Brown in any of his grievances prior to filing suit, and thus, he has failed to exhaust his administrative remedies.

4. In support of this motion for summary judgment, Defendant attaches: Nurse Practitioner Brown's Declaration as Exhibit A, Plaintiff's relevant medical records as Exhibit B, Plaintiff's relevant ARPs as Exhibit C, and MDOC's Grievance Policy as Exhibit D. Defendant filed a request to file Plaintiff's medical records under seal [Doc. 52], which was granted [Doc. 54] and therefore Exhibit B will be forwarded to the clerk's office under seal. A copy of all the exhibits will be served contemporaneous with this motion to Plaintiff.

5. For the reasons discussed above, and as more fully discussed in Defendant's Memorandum of Law in Support of his Motion for Summary Judgment, Defendant is entitled to summary judgment and respectfully requests the Court enter summary judgment in favor of Defendant on all claims asserted against it by Plaintiff.

Respectfully submitted, September 4, 2019.

/s/Michael C. Williams

Michael J. Bentley (MSB# 102631)

Molly M. Walker (MSB# 100689)

Michael C. Williams (MSB# 104537)

mbentley@bradley.com

mmwalker@bradley.com

mcwilliams@bradley.com

**ATTORNEYS FOR DEFENDANT
NURSE PRACTITIONERANGELA
BROWN**

OF COUNSEL

Bradley Arant Boult Cummings, LLP
One Jackson Place
188 East Capitol Street, Suite 1000
PO Box 1789
Jackson, MS 39215-1789
Telephone: (601) 948-8000
Facsimile: (601) 948-3000

CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and mailed via U.S. Mail, postage prepaid to:

Jerry Vanwagner, #161751
M.S.P. Unit 30 C. Bldg.
P.O. Box 1060
Parchman, MS 38738

Pro Se Plaintiff

/s/ Michael C. Williams

OF COUNSEL